



Expert tips: accessing information

Freedom of information (FOI) requests are an invaluable tool that enables litigators, activists, communities, and individuals to obtain information about the issues they are seeking to address. The information obtained through such requests can form the basis of important evidence for a case. However, as [Privacy International](#) explains:

“Filing an FOI request is not difficult, nor in and of itself particularly time-consuming, but it does take a long time before you get what you are after. Investigations based on FOI requests sometimes take years of waiting. Governments may usually extend the time they have to respond for various reasons, and they will often use that time. Sometimes you will need to start from scratch with a new FOI request. But having said all of this, take note of the exact day you filed the request and do not hesitate to complain if they do not reply in the timeframe allocated to them.”

A useful resource is the Global Investigative Journalism Network’s (GIJNs) [Guide to Freedom of Information Resources](#) and their [Global Guide to FOI and RTI](#). These resources can help when navigating various timeframes and procedures of FOI requests.

Third, requesting or causing your opponent to provide evidence is another strategic consideration. What they do or don’t come up with can be very telling and may further support your case. Access to information requests and discovery processes are common ways of seeking evidence from your opponent. Take for example data retention practices: If there is a mandatory retention period that exceeds what is necessary for law enforcement purposes, it may be worthwhile asking for a breakdown of where access to older records was instrumental for the successful conclusion of a case. If no answer is given, or even if a weak answer is given, it opens the door for you to argue why the data retention period is excessive. A similar situation played out in 2010 when the [German Constitutional Court](#) found data retention practices caused an unlawful intrusion into citizens’ privacy. In that case, the Court suspended the constitutional complaint and gave the government six months to put together a list of cases where access to older records was instrumental for a successful conclusion. The government was unable to provide a response. The lack of response was one of the main reasons why the Court moved to set the maximum retention period at six months.

Guideline 26: How you collect evidence can, in and of itself, be a strategic decision. For example, asking your opponents for access to certain information or having your opponent answer your claims “on the record” can be a hugely beneficial step in achieving the bigger picture objectives.